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TAGS: [PGOV](#) [PHUM](#) [ECON](#) [ETRD](#) [EAGR](#) [SOCI](#) [SENV](#) [PE](#)  
SUBJECT: AMAZON PROTESTS SPARK DEBATE OVER DECREES

REF: (08) LIMA 1380

Classified By: Ambassador P. Michael McKinley for reason 1.4(c).

11. (C) Summary: Prolonged and effective protests by Amazon indigenous community groups have caused Congress to reassess the legality of a number of legislative decrees regarding the use of national resources in Peru's jungle lowlands. Should Congress and President Garcia give in to the pressure, there would be implications for the recently implemented Peru-US Free Trade Agreement. Many observers believe the lack of prior consultation with affected communities on earlier laws has exacerbated their deep distrust of government intentions and helped fuel the protests. The irony is that many of the new laws represent a significant improvement on protection of the environment and forest, and inject of greater transparency into government administration. What may have begun as inchoate protests at exclusion (indigenous leaders took weeks in articulating demands), have now morphed into well-organized anti-system demonstrations that are reportedly receiving outside assistance. The government's reluctance to use force to clear roads and blockades is contributing to the impression that the communities have broader support than they actually do. Oil and natural gas pipelines are being cut, threatening to lead to electricity shortages across the country and appearing to rouse the broader population from their initial indifference.

12. (C) Prime Minister Yehude Simon has striven to meet with the protesters at every turn -- not always with firm backing from the ruling APRA party which appears to be hedging its bets on who will win the showdown. Simon is heading a multisectoral commission to negotiate with Amazon community group representatives toward a solution that meets the community's demands while defending broader national interests. Government officials are also working with establishment party congressional leaders to prepare a legislative strategy that protects Peru's national interests, including its obligations under the bilateral free trade agreement. President Garcia is beginning to speak out more forcefully about economic blackmail and in defense of what are largely helpful laws, but the Government and Congress have their work cut out for them. End Summary.

Amazon Groups Protest Decrees

13. (C) Six weeks of protests, including road blockades, by several Amazonian indigenous groups demanding the revocation of nine legislative decrees caused the government to declare a state of emergency earlier this month. The decrees were

originally passed as part of a larger mid-2008 legislative package under special authority granted to President Garcia in order to facilitate private investment, promote economic development and (in the case of several of them) expedite the implementation of the Peru Trade Promotion Agreement (PTPA). The Amazon communities, represented by the National Organization of Amazon Indigenous People of Peru (AIDSESEP), claim the decrees undermine traditional land tenure practices and open native lands to uncontrolled exploitation by outsiders, and in some cases have nothing to do with the PTPA, but rather private interests. (Note: Similar protests in August 2008 ended after Congress voted to rescind a decree regarding the voting role of communities in sanctioning proposed investment projects. The government also promised a broader review at the time -- Reftel. Separately, oil and gas companies have in fact made significant efforts at consulting and working with native communities. One major company told the Ambassador that of dozens of communities in their exploration blocs, all but one had agreed to work cooperatively with the company. As the protests multiplied in the jungle areas, President Garcia's approval rating actually rose eight points, suggesting the broader population does not support the protests in their entirety. End note.)

#### AIDSESEP

14. (C) Poloffs met with senior AIDSESEP members, including leader ("Apu") Alberto Pizango at AIDSESEP's nondescript headquarters on May 28. (Comment: AIDSESEP claims to represent all lowland indigenous people in at least four jungle regions. Several contacts estimate that AIDSESEP represents about 70% of the lowland indigenous population. Embassy has been unable to confirm AIDSESEP's claims, although the umbrella NGO "Coordinator for the Indigenous of the Amazon Basin" (COICA) lists AIDSESEP as its representative for Peru. End Comment.) Pizango dominated the meeting and took a tough stance regarding AIDSESEP's "non-negotiable" position that the nine decrees be rescinded, saying that the lowland indigenous people "prefer to die with dignity" rather than cede their ancestral lands to the government and private businesses. He noted that the recent IV Continental Summit of Indigenous Peoples and Nationalities of Abya Yala (their name for America) in Puno is fully behind AIDSESEP.

15. (C) Much of Pizango's ire focused on indigenous resentment based on hundreds of years of exploitation, human rights abuse, environmental damage and broken promises. He also highlighted what he saw as the Peruvian government's failure to comply with the "previous consultation" article in the ILO Convention 169, which Peru signed into law 15 years ago. He said the GOP's slowness in recognizing community land holdings and its lack of enforcement against poachers, illegal loggers and miners were particularly nettlesome. He said that last year, when the Peruvian congress rescinded legislative decree 1015 for being unconstitutional, AIDSESEP retreated from its protests because Congress committed to forming a multisectoral commission to review each of the other contested decrees. He said the commission in December recommended rescinding all of the decrees, but did nothing about it until AIDSESEP re-initiated protests this April. (Note: That commission was headed up by a Nationalist party politician who had opposed the decrees from the start. End Note.)

#### GOP Position

16. (C) President Garcia has publicly stated that Peru's public lands, including in the Amazon regions, belong to all Peruvians, not just to those who happen to have been born there. Other government officials have noted that less than 1% of the country's population -- the Amazon native community population numbers roughly 500,000 -- are blocking the interests of all 29 Million Peruvians in this potentially explosive situation. Many analysts observe that the debate has far eclipsed the decrees themselves and reached into fundamental questions concerning use of public lands, the state's structural relationship with marginalized communities and the future development of the country. The decrees

themselves facilitate the responsible use of Peruvian land, and offer better protection for most native lands than pre-existing laws. GOP responses against protests that block roads and energy concessions have been extremely muted to date, with no real violence to speak of accompanying the weeks of small-scale but disruptive demonstrations.

#### Constitutional Committee Sends Decree to Plenary

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17. (C) In response to the protests and to the growing political pressure, Congress's Constitution Committee is reviewing the decrees. On Qy 20, the Committee declared decree 1090 -- the Forestry and Wildlife Law -- unconstitutional and sent it to the plenary for reconsideration. Among decree 1090's many provisions, AIDSEP is reportedly most opposed to one that would allow the government to alter land use rights if it is deemed in the national interest to do so. The decree also contains elements required by the PTPA, including protection of endangered species and regulation of legal logging.

18. (C) The government has established a multisectoral commission, led by Prime Minister Yehude Simon, to negotiate with AIDSEP representatives regarding the Qrees and other issues, including development in the Amazon. While formal negotiations began on May 26, protests have continued throughout the country. Complicating matters somewhat is an investigation that the Ministry of Justice is pursuing against Mr. Pizango for sedition and rebellion, following his call for an "insurgency" to fight the decrees. Pizango withdrew this call a day later, but the investigation is still pending. Observers have expressed some concern over the apparent lack of coordination between the government's negotiation efforts and supporters of the government's position in Congress. Specifically, if Congress continues to debate with to consider rescinding the decrees, AIDSEP has little incentive to negotiate a solution with the Prime Minister.

#### Insufficient Prior Consultation

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19. (C) Many observers, including the Human Rights Ombudsman's office, believe insufficient prior consultation with affected communities has helped fuel the protests. They say the government is seen as having imposed from above a set of new rules on community groups, exacerbating community distrust of the government's intentions. Indigenous community representatives complain that laws regarding prior consultation on extractive industry activities on or near their lands have never been truly enforced in their 15-year existence. In that sense, it is their past experience with government, rather than the substance of the decrees themselves, that lies at the heart of their protest. Based in equal parts on preexisting distrust and on legal analysis provided by NGOs calling into question the government's aims in this case, Amazon community groups believe that the nine decrees are inimical to their interests. (Note: An Ombudsman representative commented on the "poor quality" of the legal analysis provided to the communities). Whether the new rules are good or bad -- better or worse than what existed before -- is almost beside the point, observers say. The highly respected Environment Minister Antonio Brack, who is naturally sympathetic to community rights, has publicly stated that the revocation of these decrees would leave native lands with fewer legal protections, not more.

#### Ideological Opposition

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110. (C) Other analysts claim that the government's clumsy approach to the highly sensitive land issue has helped catalyze different radical actors into forming a broad front lined up against these decrees, in some cases fueled by categorical opposition to investment or development of any kind in the Amazon region. Some of our contacts point to the role of highly ideological foreign and domestic NGOs in fomenting political crisis out of the legitimate underlying grievances of Peru's most politically marginalized and geographically isolated communities. There are also

questions being raised about how the protests are being funded, with fingers being pointed at Bolivia, Venezuela, and elsewhere. Pizango has reportedly made 16 trips overseas since the beginning of the year. Others argue that Peru's radical political opposition, including the Nationalist Party, had little to do with the origins of the protest but have successfully jumped on the bandwagon to harvest the political benefits -- seeking to embarrass and weaken the government. In his meQ declarations, AIDSEP leader Pizango has often been surrounded by Nationalist Party congressional representatives. A contact at the Human Rights Ombudsman's office said that a willfully skewed interpretation of the decrees had spread among communities to the effect that the "President wants to take away your land."

#### Multisectoral Commission, Congressional Strategy

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¶11. (C) Prime Minister Yehude Simon is leading a multisectoral commission that is negotiating with Amazon community group representatives. One of the government's aims is to isolate the specific legislative elements which native community representatives find most objectionable and identify ways to work around them. Meantime, Congress has so far delayed a plenary vote on the decrees, with the ruling APRA-party, the National Unity alliance (UN) and the Fujimorista bloc agreeing that the formal recommendations of the multisectoral commission should be heard before any binding congressional vote occurs. Government officials are also working with establishment party congressional leaders to prepare a legislative strategy that protects Peru's national interests, including its obligations under the bilateral free trade agreement. Establishment party congressional leaders have told us they believe there are legislative solutions that ensure PTPA implementation does not get caught up in the mix. The plenary is scheduled to take the issue up again on June 3.

#### Playing with Peru's Development Interests

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¶12. (C) Comment: If native groups or those currently guiding them are not interested in pursuing a negotiated solution or decide to cling to an absolutist "abrogate or bust" strategy, the protests can surely be read as part of a broader political project to challenge the Garcia government's investment and growth-led policy direction. Some opposition elements, including the Fujimoristas (who can generally be counted on to support the government) are playing at supporting legislative changes in a cat-and-mouse game to embarrass the government. They could end up not only weakening the government, but the development interests of the nation. President Garcia, who has lost valuable time taking the lead on this issue, is beginning to speak out more forcefully about economic blackmail and in defense of what are largely progressive laws. As we move into a fifth week of confrontations, however, the main indigenous grouping is threatening to broaden its alliance with other extremist groups if the decrees are not rescinded. Their effort to promote a national solidarity strike, however, has resoundingly failed. Garcia and Congress have their work cut out for them. End Comment.

MCKINLEY